

MARK S. ALTMAN

IBLA 86-1497

Decided August 28, 1986

Appeal from a decision of the Rock Springs District Office, Bureau of Land Management, approving an application for a permit to drill. W-48959.

Appeal dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal -- Rules of Practice: Appeals: Standing

Where a person does not allege and the record does not show he is a party having an interest adversely affected by a BLM decision, that person has no right to appeal and his appeal will be dismissed.

APPEARANCES: Mark S. Altman, pro se; John F. Shepherd, Esq., Washington, D.C., for The Anschutz Corporation; Lyle K. Rising, Esq., Office of the Regional Solicitor, Denver, Colorado, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Mark S. Altman has filed a notice of appeal from the June 26, 1986, decision of the Rock Springs District Office of the Bureau of Land Management (BLM) and the District Ranger, Jackson Ranger District, Bridger-Teton National Forest, to approve an application for a permit to drill (APD) an exploratory oil or gas well in sec. 22, T. 40 N., R. 118 W., Sixth Principal Meridian, Teton County, Wyoming. By order issued August 8, 1986, we granted a petition to intervene filed by The Anschutz Corporation, the lessee, and suspended the permit temporarily pending further briefing. All parties filed responses to The order by August 26. We dismiss the appeal. 1/

43 CFR 4.410(a) provides that "[a]ny party to a case who is adversely affected by a decision of an officer of the Bureau of Land Management * * * shall have a right to appeal to the Board * * *." To be a "party to a case" a person must have "actively participated in the decisionmaking process

1/ Because of our disposition of the case, we need not discuss the standards applicable in determining whether or not to suspend a BLM decision to approve an APD. We note only that 43 CFR 3165.4 requires a determination that suspending the BLM decision will not be detrimental to the interests of the lessor (the United States) or an acceptance of a bond to adequately indemnify the lessor. Although of course relevant, we do not regard the factors considered by Federal courts in granting preliminary injunctions as binding on our determinations whether to suspend BLM orders or decisions under 43 CFR Part 3160.

regarding the subject matter of [the] appeal." Sharon Long, 83 IBLA 304, 307 (1984). See In Re Pacific Coast Molybdenum, 68 IBLA 325, 330-31 (1982). To be "adversely affected" by a decision "the record must show that appellants have a legally recognizable interest." Sharon Long, supra at 308. The interest need not be an economic or a property interest; use of the land involved or ownership of adjoining land suffices. Id. "Mere 'interest in a problem'" or "deep concern with the issues" involved, however, does not. Oregon Natural Resources Council, 78 IBLA 124, 125-26 (1983). The Board will not speculate why an appellant is concerned about a decision, *i.e.*, what interest is adversely affected. Save Our Ecosystems, Inc., 85 IBLA 300, 301 (1985); Phelps Dodge Corp., 72 IBLA 226, 228 (1983). Appellant must allege or the record must show an interest that is injured. Sharon Long, supra at 308; Oregon Natural Resources Council, supra at 126. A person must be both a party to a case and have an adversely affected recognizable interest in order to have a right to appeal to the Board. If either element is lacking, an appeal must be dismissed. In Re Pacific Coast Molybdenum, supra; Save Our Ecosystems, Inc., supra.

[1] Neither the record nor appellant's pleadings in this case indicate that he either is a party to the case or has a recognizable interest that is adversely affected by the decision appealed. The Environmental Assessment's discussion of public consultation and coordination indicates many people attended a public meeting or wrote letters or both about the APD. ^{2/} Even if we assume appellant was one of these people and, based upon his participation, was a party to the case, we can find no interest of his that is adversely affected. His Motion for Stay Pending Appeal, Statement of Reasons, and Response to The Anschutz Corporation express concern about the "threat to the environment;" "threat to the lives of the citizens of the area;" "serious ramifications that this drilling proposal portends upon the appellant and his peers, including threats to life and limb as a result of sourgas and industrial development in a residential neighborhood;" "the lives, lifestyles, public safety, property values, and the quality of life of the citizens of Wilson, Wyoming and myself; and state that "[t]he third logical party to this issue, the general public and myself, has much at stake in this dispute." While we do not question the sincerity of appellant's concerns, these statements do not identify an individual interest that is adversely affected. Without such an interest, he has no right to appeal BLM's decision. Oregon Natural Resources Council, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Will A. Irwin
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge

John H. Kelly
Administrative Judge

^{2/} Environmental Assessment, The Anschutz Corporation, Moose Gulch Unit, Exploratory Oil Well, June 1986, at 56.

